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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

18 Cr. 339 (PAC)

5 JILLIAN WALCOTT,

6 Defendant.

7 -----x

Sentence

8 January 15, 2020  
9 3:45 p.m.

10 Before:

11 HON. PAUL A. CROTTY,

12 District Judge

13  
14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the  
17 Southern District of New York

BY: NICHOLAS W. CHIUCHIOLO

18 Assistant United States Attorney

19 GILBERT C. PARRIS

20 Attorney for Defendant

21  
22 ALSO PRESENT:

23 SPECIAL AGENT RANDALL AVERY, FBI  
24  
25

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(Case called)

THE DEPUTY CLERK: Counsel for the government, please state your appearance.

MR. CHIUCHIOLO: Good afternoon, your Honor. Nicholas Chiuchiolo for the United States. I'm joined at counsel table with Special Agent Randall Avery with the F.B.I.

THE COURT: Mr. Avery, how are you today?

AGENT AVERY: Fine. Thank you.

MR. PARRIS: Good afternoon, your Honor. For Mrs. Walcott, Gilbert Parris.

THE COURT: Good afternoon, Mr. Parris and Ms. Walcott.

The first order of business today, I noted as I was going through the file that I have an unsigned order here in which I accept the guilty plea by Ms. Walcott. The plea was taken by Magistrate Judge Pitman on August 15. If nobody has any objections, I will sign the order and make it part of the court record.

Any objection?

MR. CHIUCHIOLO: No objection.

MR. PARRIS: No objection, your Honor.

THE COURT: Okay. I have signed the order. That takes care of that.

I also have an order of forfeiture which Ms. Walcott was allocuted to by Magistrate Judge Pitman back in August, and

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1 that was signed by me on September 5 as well as an order of  
2 restitution -- it's the forfeiture order is in the amount of  
3 \$100,000. I also have an order of restitution which I signed  
4 on October 19, 2019. Ms. Walcott's portion of the amount of  
5 restitution is \$550,000, and they will both be made a part of  
6 the court record today.

7 I have the presentence report, which is dated October  
8 8, 2018. It was revised on November 6, 2019.

9 Mr. Parris, do you have any correction you want to  
10 make to the presentence report?

11 MR. PARRIS: No, your Honor.

12 THE COURT: I'm going to accept the facts as accurate.

13 This calculates the offense level as 20, it concludes  
14 the criminal history category as I, resulting in a guideline  
15 provision of 33 to 41 months.

16 Is that accurate as well.

17 MR. PARRIS: Yes, your Honor.

18 THE COURT: I'm going to accept it as accurate.

19 I have read your submission, Mr. Parris, but I know  
20 you want to elaborate on it.

21 MR. PARRIS: Yes, your Honor.

22 THE COURT: Yes.

23 MR. PARRIS: First I want to thank the court late, and  
24 apologize for my delayed submission.

25 THE COURT: It's all right.

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1 MR. PARRIS: I would like to point out to the court,  
2 number one, my client, Ms. Walcott, has been accused of a  
3 nonviolent offense. As is articulated in the report, she -- in  
4 terms of the role that she played here, in the scheme of  
5 things, in speaking to her, the total amount of financial gain  
6 that she actually received was less than actually \$5,000, not  
7 that it makes the crime any less on her behalf, but I want to  
8 point that out to the court, as well as her level of  
9 culpability regarding the other defendants in this matter. She  
10 was on the lower level of culpability in this matter.

11 Your Honor, my client raises her son by herself. So  
12 she is a single mother. As soon as she was let go from her  
13 job, which was part of this case, she did seek another job and  
14 has been having gainful employment.

15 I'm going to ask that your Honor consider and adopt  
16 the probation recommendation here of a nonincarceratory  
17 sentence, given that my client, number one, had not led a life  
18 of crime prior to this case and has had no rearrests. She is  
19 definitely not likely to be a recidivist. She is a prime  
20 candidate for nonrecidivism. The fact that these choices were  
21 made at this time has been devastating her. She recognizes the  
22 impact that it has, not only on her social standing and future  
23 job prospects, but to her son, which has been meaning  
24 everything to her.

25 Again, I point out that there was no violence

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1 indicated in these charges. She has not participated in any  
2 violence here. Additionally, she cooperated with all  
3 guidelines in terms of the post release -- I'm sorry, in terms  
4 of the cooperating with supervised release, and she has never  
5 been rearrested.

6 Additionally, the fact that she has -- I'm sorry. The  
7 fact that my client has been -- she made a choice that she does  
8 regret, and it's very clear. She owned up to that choice. She  
9 has apologized and will be apologizing when speaking on her own  
10 behalf to the court. I submit that she is a prime candidate to  
11 not be incarcerated because incarceration would further  
12 devastate her and it would actually delay any type of  
13 restitution to the victims in this matter. I would like your  
14 Honor to consider all of those things as well as my  
15 presentencing report in your Honor's sentence.

16 THE COURT: Thank you, Mr. Parris.

17 Mr. Chiuchiolo.

18 MR. CHIUCHIOLO: Yes, your Honor. I will be brief and  
19 rely primarily on the government's December 12 sentencing  
20 submission.

21 The crime that Ms. Walcott or the crimes that  
22 Ms. Walcott has pled guilty to are very serious crimes. I know  
23 your Honor is very familiar with this fraud scheme, so I will  
24 just briefly provide overview of what Ms. Walcott's role was in  
25 the scheme, and her role was to obtain or steal personal

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1 identifying information and provide it to members --

2 THE COURT: Which she did by utilizing the records of  
3 the walk-in health clinic.

4 MR. CHIUCHIOLO: Exactly, your Honor. The defendant  
5 worked at CityMD, which is a popular walk-in clinic here in the  
6 city, in the tristate area and, at least over several months,  
7 she repeatedly stole personal identifying information from  
8 patients who visited that clinic, provided that information to  
9 Mr. Simon, who then, from there, used that information, passed  
10 it along to other conspirators to create fake or counterfeit  
11 credit cards that were ultimately used to purchase or steal  
12 merchandise.

13 So that aspect of the crime is unique to Ms. Walcott,  
14 and it is very serious. People go into doctors' offices, that  
15 is supposed to be a zone of utmost confidentiality and trust,  
16 and Ms. Walcott deliberately and repeatedly violated that trust  
17 by repeatedly stealing patient information and then, of course,  
18 with the goal of stealing from those patients.

19 So the government believes that a term of  
20 incarceration is warranted here. We would put Ms. Walcott sort  
21 of in the middle of the charged defendants in this case. I  
22 think her conduct is more serious than some of the shoppers,  
23 like Ms. Montoya, who were just in the stores purchasing at the  
24 direction of Mr. Simon, and not as serious as some of the other  
25 individuals who played more important roles, like Mr. Davidson

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1 or certainly Mr. Simon. But nonetheless, her role in the  
2 conspiracy was a critical part of the conspiracy in helping it  
3 operate, and for that we would suggest some term of  
4 imprisonment.

5 THE COURT: Do you want to elaborate -- if you would,  
6 I would appreciate it -- on the final paragraph on page 6 of  
7 your letter, where you mention certain mitigating factors?

8 MR. CHIUCHIOLO: So, your Honor, the -- yes. The  
9 government recognizes here Ms. Walcott accepted responsibility  
10 quickly. She should get credit for that. And you know the  
11 fact that she is a mother, this -- her lack of criminal  
12 history, pretty much everything that was well articulated in  
13 the defense submission, the government recognizes that and we  
14 are not asking, you know, for the most serious sentence as we  
15 are for some of her codefendants. But nonetheless, it is a  
16 serious crime, you know. We are sympathetic for her mitigating  
17 factors, but she committed this crime knowingly and knowing the  
18 impact it could have on her loved ones.

19 THE COURT: All right. Ms. Walcott, this is your  
20 opportunity to speak if you wish to do so.

21 THE DEFENDANT: Good afternoon. So on behalf of  
22 myself I just need to show -- sorry.

23 THE COURT: Take your time. Do you want some water?

24 THE DEFENDANT: So at this time I just want to say --  
25 express my remorse in the role that I did play in this. At

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1 that time I was going through just a little bit of stuff. And  
2 I want to apologize to the courts, the government, the  
3 families. I don't know if they are here today. And since  
4 then, I have just wanted to let you guys know that I turned my  
5 life around. Like, I am starting trying to, like, just  
6 progress and show my son different ways to do different things,  
7 and he is just like -- he is doing so well in school. He is,  
8 like, in the gifted class. He is doing spelling bees.

9 And, like, I started baking more. I'm about to try to  
10 start to open up a whole cake-baking business. I showed --  
11 when my pretrial officer came to my house, I showed him  
12 pictures of everything that I'm starting to do, and he is so  
13 proud of me. And my son is literally, like, so proud of me.  
14 Every time he see me in the kitchen he is like, Mom, what you  
15 going to bake today? Do you want to cook today? What you been  
16 cooking?

17 I just want to apologize for my role in anything that  
18 has taken place and the hurt and the strain that it has put on  
19 these families. Because, honestly, if I knew at the time that  
20 this was going to be this, I would not have gone forward. I  
21 would not have. Like, I'm going three years on my new  
22 position. I'm about to apply for a higher position at the job,  
23 and everything is just going so well for me right now. And I  
24 just want to say that I'm sorry.

25 THE COURT: Anything else, Ms. Walcott?



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1 THE DEFENDANT: No, your Honor. Thank you.

2 THE COURT: I have read the plea agreement and the  
3 colloquy before Magistrate Judge Pitman. I have read the  
4 presentence report and Mr. Parris's submission, along with  
5 Mr. Chiuchiolo's submission.

6 I am prepared to impose sentence. In imposing the  
7 sentence, under the factors as set forth under 18 U.S.C. 3553,  
8 I have to consider the nature and the circumstances of the  
9 offense, as well as the history and characteristics of the  
10 defendant. That's an individualized consideration that I have  
11 to make. This is a serious crime. It went on for a long time,  
12 and it was very successful in bilking hard-working New Yorkers  
13 out of a lot of money through a nefarious scheme which was run  
14 by Mr. Simon.

15 I agree with Mr. Chiuchiolo that this is a serious  
16 matter because you walk into an M.D. office hoping for an  
17 atmosphere of trust and confidence and confidentiality. That  
18 was a real breach of that to have the financial records that  
19 you need to file in order to get health treatment and then to  
20 have that trust breached by the theft of confidential  
21 information and used for exploitation.

22 On the other hand, I have taken into consideration the  
23 fact that Ms. Walcott did not make an awful lot of money on  
24 that, notwithstanding the fact that she has a major bill in  
25 restitution, and I also considered the fact that she is a

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1 single mother with a child at home, and putting her away in an  
2 incarceratory scene would have a devastating effect on family.

3 I have taken all those factors together, and I'm going  
4 to impose -- I'm going to follow the recommendation of the  
5 Department of Probation, which respectfully recommends the  
6 court depart from the guidelines and, pursuant to 3553(a),  
7 impose a term of time served on each count. I am going to do  
8 that.

9 This is a nonviolent crime. This is Ms. Walcott's  
10 first offense. She is working now and is a productive member  
11 of society. She is going to have to live with a felony  
12 conviction on her record, but imposing a further punishment  
13 other than the restitution and forfeiture would make the  
14 sentence greater than it had to be, so I am going to impose a  
15 sentence of time served on each count -- Counts Two and Four.  
16 The time served is to run concurrent.

17 A term of supervised release of three years on each  
18 count, Count Two and Count Four.

19 I have already mentioned the restitution of \$550,000  
20 and the forfeiture of \$100,000.

21 I must impose a special assessment on each count of  
22 Count Two and Count Four of \$100 each.

23 This is subject to the mandatory conditions of  
24 supervised release and the special conditions of supervised  
25 release as set forth on pages 28 and 29 of the presentence

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1 report.

2 There are some special conditions which I will now  
3 read:

4 Ms. Walcott has to provide the probation officer with  
5 access to any requested financial information, and she is not  
6 to incur new credit charges or open additional lines of credit  
7 without the approval of the probation officer unless she is in  
8 compliance with an installment payment schedule.

9 Her property is subject to search as set forth on  
10 special condition number three on page 30 of the PSR.

11 And, finally, if the probation officer determines,  
12 based on the criminal record here, personal history, or  
13 characteristics, that Ms. Walcott poses a risk to another  
14 person, the probation officer, without the prior approval of  
15 the court, may require her to notify the person about the risk,  
16 and she must comply with that instruction. The probation  
17 officer may contact the person and confirm that they have been  
18 notified about the risk.

19 You live in Brooklyn, don't you, Ms. Walcott?

20 THE DEFENDANT: I do. I agree.

21 THE COURT: So you are going to be supervised in the  
22 district of your residence, so you will be supervised out of  
23 the Eastern District of New York at the Brooklyn Federal  
24 Courthouse.

25 That is the sentence I intend to impose. Any

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1 objections, Mr. Parris?

2 MR. PARRIS: No, your Honor.

3 MR. CHIUCHIOLO: No objection from the government.

4 THE COURT: The sentence is imposed.

5 Now that I have imposed sentence on you Ms. Walcott, I  
6 have to advise you that you have the right to appeal the  
7 sentence. If you can't afford to pay the cost of appeal, you  
8 can apply to appeal *in forma pauperis*. If you so request, my  
9 clerk will immediately prepare and file a notice of appeal on  
10 your behalf. The notice of appeal has to be filed within 14  
11 days of the entry of judgment. Judgment will be entered by the  
12 close of business tomorrow.

13 I am just trying to find your plea agreement. I  
14 believe in your plea agreement you agreed that you wouldn't  
15 file a direct appeal of the sentence if the sentence was at or  
16 below the guideline range of 33 to 41 months. Mr. Parris can  
17 advise you further on whether you are within your rights to  
18 take an appeal.

19 Do you want to dismiss the open counts,  
20 Mr. Chiuchiolo?

21 MR. CHIUCHIOLO: Yes. The government moves to dismiss  
22 all open counts, your Honor.

23 THE COURT: The open counts are dismissed.

24 Anything else to do today?

25 MR. CHIUCHIOLO: Nothing from the government. Thank

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1 you, your Honor.

2 THE COURT: Mr. Parris?

3 MR. PARRIS: Nothing, your Honor. Thank you very  
4 much.

5 THE COURT: Good luck, Ms. Walcott.

6 THE DEFENDANT: Thank you, your Honor.

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